

CITY OF GLOUCESTER

CONSERVATION COMMISSION

MEETING MINUTES

WEDNESDAY, May 18, 2016 - 7:00 PM
City Hall, 2nd Floor, Kyrouz Auditorium
Robert Gulla Chair

Members Present: Robert Gulla, Ann Jo Jackson, Helene Kwasie, Linda Charpentier, John Feener, Bill Cook, Barry Gradwohl- absent
Staff: Ken Whittaker

I. ADMINISTRATIVE BRIEFING

Rouse Road – Modification to Planting Plan OOC #28-2379

Attorney Favazza requested a continuance until June 1, 2016.

Motion to continue the Rouse Road Modification Planting Plan OOC #28-2379 to June 1, 2016 was made by Ms. Jackson, seconded by Ms. Charpentier and unanimously approved.

Mr. Gulla recused himself.

64 Woodward Avenue – Alternatives Analysis

George and Cynthia Adams

Ms. Adams explained the justification of keeping the garage in the same location, including the following:

1. It is the only portion of the property bordering the street that is a constant grade which is needed to support a garage. Any alternative location would require site work, including potentially moving telephone/utility/street light pole.
2. Alternative locations contain established plantings, grass, and stone walls. The garage currently sits on eroding cinder blocks and loose rocks and rubble.
3. Proposed location provides safest entry and exit to street.
4. Proposed location is supported by a clear road access that is effectively part of the roadway paving and is often used for public turnout if needed when two cars encounter one another on the road.

Motion to approve Alternatives Analysis for 64 Woodward Avenue was made by Ms. Charpentier, seconded by Ms. Kwasie and unanimously approved.

Mr. Gulla rejoined the commission.

II. PUBLIC COMMENT- None

**III. MINUTES REVIEW AND APPROVAL – March 16, 2016;
April 6, 2016; May 4, 2016**

IV. Block 1: Continued Projects

- A. NOI: 2 Trenal Way #28-2443 (Map 89, Lot 45)** Submitted by Christopher Murphy to construct 3 car garage and breezeway in Riverfront Area.

Frederick Geisel, 15 Steep Hill Drive, Gloucester

Two alternatives drawings were presented and explained to the Commission. The Commission discussed the alternatives that were presented.

Ms. Jackson moved to accept the Alternatives Analysis. Ms. Charpentier seconded the motion and it was unanimously approved.

*Mr. Feener stated that the language should be stricken- project has little or no impact and should not use- economic benefit, but should say cost prohibitive.

Public comment on alternatives analysis: None

Mr. Feener stated that a best management practices plan to be in place for stormwater management.

Mr. Gulla questioned if there was any opportunity to remove impervious between the deck and the existing boat ramp to allow at least more grass and reduce opportunities for uncontrolled stormwater runoff.

Ms. Murphy stated that they were not using ramp for putting in boats, that they would put in crushed stone instead of cement.

The Applicant agreed to leave curbing and remove existing pavement and replaced with gravel down to flood zone, with a provision for installation of planting beds along the former boat ramp.

The Applicant's representative committed to send revised drawings reflecting those changes.

Public comment on mitigation:– none

Motion to approve the NOI for 2 Trenal Way #28-2443 (Map 89, Lot 45) submitted by Christopher Murphy to construct 3 car garage and breezeway in Riverfront Area was made by Ms. Jackson, seconded by Ms. Charpentier and unanimously approved.

- B. ANRAD: 30, 48 and 50 Atlantic Avenue #28-2413 (Map 257, Lots 167, 202 and 201)** Submitted by Francis Goodhue for Abbreviated Notice of Resource Area, coastal wetland.

Agent Whittaker noted that he received documents from the Applicant, did not have time to transmit them to the Commission prior to the meeting. He mentioned that the Commission will probably need to discuss hiring a third party for review at next meeting.

Motion to continue the ANRAD at 30, 48 and 50 Atlantic Avenue #28-2413 (Map 257, Lots 167, 202 and 201) submitted by Francis Goodhue for Abbreviated Notice of Resource Area, coastal wetland to June 1 was made by Ms. Charpentier, seconded by Ms. Jackson and unanimously approved.

- C. RDA 1484: Gloucester Commuter Rail** - Submitted by Keolis Commuter Services to renew wetlands delineation along Gloucester commuter rail right-of-way.

Mr. Whittaker stated he was comfortable with the delineation.

Mr. Feener stated he wanted to make sure the delineation was accurate for vegetation control and asked that a vegetation management plan be submitted to ensure it complies with national standards including requirements for applicator licensure. Mr. Feener also indicated that the vegetation management plan show how Keolis plans to reduce total amounts of herbicide applied on an annual basis. An annual report showing how the herbicides are applied is also required.

Public comment: None

Motion for a Negative Determination for RDA 1484: Gloucester Commuter Rail - submitted by Keolis Commuter Services to renew wetlands delineation along Gloucester commuter rail right-of-way was made by Ms. Kwasie, seconded by Ms. Jackson and unanimously approved.

- D. NOI: 10 Brace Cove #28-2445 (Map 134, Lot 30)** Submitted by Michael Slezak to build detached 2-car garage and walkway/patio in buffer zone.

Mr. Slezak stated that, in addition to everything else that has been previously proposed, the patio is to be removed and to deal with the runoff an additional vegetated area is provided, and a drywell was added. In addition to that 900 square feet of high bush blueberry will be included in the overall planting.

Public Comment: None

Motion to approve the NOI for: 10 Brace Cove #28-2445 (Map 134, Lot 30) submitted by Michael Slezak to build detached 2-car garage and walkway/patio in buffer zone was made by Ms. Jackson, seconded by Charpentier and unanimously approved.

E. NOI: 92 Leonard Street #28-2451. (Map 182, Lot 2) Submitted by Sarah Campbell to construct driveway, stormwater system and utilities in buffer zone

Dan Ottenheimer, Mill River Consulting, Gloucester

Mr. Ottenheimer stated that the site is a ½ acre parcel. The Fire Department requested a pedestrian walkway so they can have access to house. Only part of the project is in the commission jurisdiction. The amount of plantings is greater than the amount of disturbance. DEP has no comment. Potentially impacted wetlands are across the street from the site. The Applicant had not yet determined the design of the house, and a stormwater management plan still needs to be finalized. The proposed stormwater infiltration system is shown on the site drawings, but may need to expand or contract once the house within the area of disturbance is designed. DPW has reviewed and approved the proposed driveway and approved overflow pipe into the City storm drain in the event that it is necessary. The Applicant noted that the area of disturbance of the proposed walkway will be planted with native species. Accordingly, the area planted and preserved is greater than the impervious area created.

Public comment:

Burt Mason- 83 Leonard St

Mr. Mason stated that he was concerned with scope of the project and made some alternative suggestions for the commission to consider. He claims there will be a wholesale clearing of the entire property and asked if there is there an alternative to this as it seems severe. There is a shallow infiltration area that will be cleared and the driveway is very large. He suggested that maybe part of it could be pervious. The walkway is 60 feet long and has a steep slope. A narrow footpath along the sewer line could work just as well. He spoke about the proposed infiltration system stating that the existing conditions cannot accept more water flow as proposed by the project. He made suggestions to improve the design. He elaborated on possible drainage improvements the Commission could recommend.

Steve Foley, 81 Leonard St

Mr. Foley shared Mr. Mason's concerns. He asked the commission if whether or not the soil drilling will be done and if the underground aquifer will be affected.

Mr. Feener stated that the soil management outside of buffer should be considered.

Mr. Gulla stated that the neighbors' concerns should be considered. He stated concern of the potential long term effect of the clearing and the proposed drainage not working.

Mr. Ottenheimer stated that the DPW and engineering did approve the configuration and has a permit for the proposed driveway.

Mr. Gulla asked that engineering sign the storm water plan and that the neighbors' concerns should be looked at again regarding the water velocity.

Mr. Whittaker suggested a site visit.

Motion to continue the NOI for 92 Leonard Street #28-2451. (Map 182, Lot 2) submitted by Sarah Campbell to construct driveway, stormwater system and utilities in buffer zone to June 1, 2016 was made by Ms. Kwasié, seconded by Ms. Charpentier and unanimously approved.

F. NOI: 337 Concord Street #28-2446 (Map 240, Lot 1) Submitted by Jeffrey Roberts to construct playing field, driveway, septic system and plantings in ACEC buffer zone.

**Attorney Dan Bailey- Pierce & Atwood
Jeff Andrews, Plaistow, NH, Wetlands Preservation Inc.**

Attorney Bailey stated that the barn is no longer part of the plan and just the completion of the retaining wall needs to be done. He noted most of the playing field is outside Commission jurisdiction, and 300 square feet of isolated wetland was the only area has been impacted and will be restored. All the proposed work complies with the commission compliance standards.

Mr. Roberts reviewed the site plan once again for the commission.

Mr. Andrews went through site plan, identifying boundaries of property b/w and ACEC, isolated vegetated wetlands and noted that the Applicant has identified all wetland resource areas pertinent to resource areas.

The Applicant now proposes to complete work, including rip rap retaining wall, concrete retaining wall, existing septic, installation of planting beds at various locations, and Christmas trees and apple trees.

350 s.f. of impacted isolated wetland was identified as part of delineation and it will be restored back to wet meadow condition, including plantings along that edge.

He reiterated that they continue to maintain work to stabilize site as implemented last fall and monitoring has continued after storm events to ensure that site has been stabilized.

Applicant's representative Mr. Bailey noted that the project should have come before the Board and been approved in advance, but also stated that the

Applicant did receive a blasting permit and Board of Health permit, and Applicant claims he did not realize there were wetlands resources on site.

The Commission discussed at length the large concrete wall near the septic leach field, concerned with the inability of wildlife migration.

The Applicant noted that notwithstanding the steep wall on the property that there is ample land on either side of the wall, thus no barrier to wildlife mitigation can be expected.

Mr. Feener noted limited amount of tree mitigation, suggesting that the real purpose may be formation of a tree farm seeking exemption from WPA jurisdiction. He noted that for true mitigation, these trees must be native non-invasive non-farmed trees.

Public Comment:
Dan Greenbaum, 318 Concord St.

Mr. Greenbaum summarized existing concerns of neighbors to the property. These serious concerns include:

Resolution of enforcement
Substantial damage already done
Inadequacy of alternatives analysis for Riverfront Area
Discussion of all relevant information to the public.

Specifically, his and abutters' concerns include:

No discussion of the resolution of enforcement action. What about restoration? What mitigation? Dense forest was taken out and no restoration or replacement has been made. No acknowledgment that uncontrolled work over 2 years led to 5.5 million gallons of incident rainfall associated with construction/clearing migrating into the ACEC, and there has been no compensatory work for this.

The Commission should think seriously about addressing various violations of regulations –though no evidence of endangered species, habitat for many species has been affected by the project – wall built without authorization and 18,000 s.f. of tree removal undoubtedly has had impact on movement of wildlife.

The current alternatives analysis is totally inadequate and other alternatives to current configuration should have been considered.

He suggested the following actions be considered to mitigate for the damage already done:

The area to be restored to its original condition - eliminate wall and restore area (except necessary for septic) 18,000 of riverfront, 20,000 feet of buffer area.

No construction allowed in riverfront area – the wall should be moved back or removed and the area restored with native hardwood vegetation that was there before, not with apple and spruce trees, which are not native.

Cost of alternatives should be considered as part of a riverfront/restoration analysis– cost of removal of stone wall should not be considered because it was done without authorization.

Mr. Greenbaum introduced an enforcement action letter – 30 abutters have signed this letter with photo evidence.

He stated that this work undoubtedly has impacted wildlife. The current Alternative Analysis is not sufficient and there are other alternatives that should be considered.

Stacy Fisher 320 Concord St

Ms. Fisher stated concerns about the irrigation for the planting beds and the athletic field as they are close to the leaching field and questioned how it will be maintained. The playing field is part of the 100 buffer zone of the ACEC area that will require a lot of landscaping that will affect the buffer and surrounding resources. She stated concerns that the fertilizer for the playing field will cause problems for the creek and place unreasonable and deleterious demands on neighboring wells.

Mr. Feener noted that with proper application herbicide should not impact area wells and groundwater.

Debra Kramer 318 Concord St

Ms. Kramer also stated concerns with pesticide application, stating it is an area of critical environmental concerns and important bird habitat area, including an area for rare species. She noted that the area is part of a shorebird reserve network and excess fresh water inflow from the site may affect PH and wildlife viability. She also noted that unnatural illumination/floodlights should be banned from the area, as such artificial light sources can impact migrating birds.

Jerry Brown

Mr. Brown stated that all planting should be native and replicate what was there.

Leslie Division - 334 Concord St.

The public would like to see and be able to respond to the letter that was submitted tonight.

Mr. Whittaker stated the letter will be available to all who request it.

Derek Brown, Essex

Mr. Brown stated the near certainty of negative impact of site construction and tree cutting on plant and animal life in the ACEC area.

Mr. Gulla stated he was very disappointed in what was presented by the Applicant and that everything that has been done to mitigate impacts on the site to date is weak. He stated that what was presented tonight was a token gesture and needs to go back to the drawing table, as the Commission believes it is clearly inadequate to address concerns, and more is needed to reflect a good faith effort to mitigate.

Attorney Bailey stated that he will go back to the applicant and requested a 1 month continuance to June 15.

Motion to continue the NOI for 337 Concord Street #28-2446 (Map 240, Lot 1) submitted by Jeffrey Roberts to construct playing field, driveway, septic system and plantings in ACEC buffer zone to June 15, 2016 was made by Ms. Kwasie, seconded by Ms. Charpentier and unanimously approved.

V. Block II: New Projects

Ms. Charpentier recused herself.

A. RDA 1489: 6 St. Joseph Lane (Map 174, Lot 38) – Submitted by Michael & Carlotta Patten to construct deck in buffer zone.

Mr. Whittaker informed the commission that the deck is on the outside edge of buffer and there is no increase in impervious area.

Public comment: None

Motion for a Negative Determination for RDA 1489, 6 St. Joseph Lane (Map 174, Lot 38) submitted by Michael & Carlotta Patten to construct deck in buffer zone was made by Mr. Feener, seconded by Ms. Jackson and unanimously approved.

Ms. Charpentier rejoined the commission.

B. NOI: 51A River Road #28-..... (Map 118, Lot 71) – Submitted by Paul Hackett to construct concrete pad/install seasonal ramp and float.

At the Applicant's request, Motion to continue NOI, 51A River Road #28-..... (Map 118, Lot 71) submitted by Paul Hackett to construct concrete pad/install seasonal ramp and float to June 1, 2016 was made by Ms. Jackson, seconded by Ms. Kwasie and unanimously approved.

C. NOI: 96 Woodward Avenue #28-..... (Map 230, Lot 80)- Submitted by William Wheat request to landscape/remove debris/construct minor additions in Riverfront Area.

Sonya & Bill Wheat, 6 Marmion Way, Rockport, MA

Ms. Wheat explained that the home will be remodeled on the footprint it is on now, the garage may be slightly extended to allow for two cars and small retaining walls will be installed, one slightly approaching the resource areas. The debris will be removed by hand and mechanical means and because of the amount of material and the slope, double silt fencing will be installed.

Chairman Gulla proposed that “standard” conditions for controlling loss of debris to resource areas be included in any Order. Commission noted its favorable review of the project on the basis of the overall improvement of environmental conditions in the area that will result.

Mr. Feener stated that the project qualifies as a redevelopment.

Motion to approve the Alternative Analysis as there is only one option was made by Ms. Kwasie, seconded by Mr. Cook and unanimously approved.

Public Comment: None

Motion to approve NOI for 96 Woodward Avenue #28-..... (Map 230, Lot 80)- submitted by William Wheat request to landscape/remove debris/construct minor additions in Riverfront Area was made by Ms. Kwasie, seconded by Mr. Feener and unanimously approved.

D. NOI: 742 Washington Street #28-..... (Map 116, Lot 33) – Submitted by Elisabeth & Ricci Accardi request to construct walkway and seasonal float.

Ms. Accardi explained that the walkway is 50 feet x 3, and the float 10x 15. The Harbormaster and Dave Sargent did not have any issues.

Chairman Gulla indicated that letters documenting these non-concerns be placed in the file. He noted that the float will be on stand-offs, as it will ground out at low tide.

Public comment:

Paul Blanding

Mr. Blanding stated that he was concerned with his ability to be able to add a float on his property when he was ready.

Mr. Gulla stated he did not see it as a concern.

Motion to approve NOI for 742 Washington Street #28-..... (Map 116, Lot 33) submitted by Elisabeth & Ricci Accardi request to construct walkway

and seasonal float was made by Ms. Kwasie, seconded by Ms. Charpentier and unanimously approved.

E. RDA 1490: 16 Fuller Street (Map 166, Lot 28) – Submitted by Willow Bank Condominium Trust request for landscape changes in coastal bank buffer zone.

As Applicant or representative was not present at the meeting, Motion for a continuation of hearing to June 1, 2016 for 16 Fuller Street (Map 166, Lot 28) submitted by Willow Bank Condominium Trust request for landscape changes in coastal bank buffer zone was made by Ms. Jackson, seconded by Ms. Kwasie and unanimously approved.

VI. OTHER COMMISSION BUSINESS

Emergency Certification – 79 Eastern Point Boulevard

Motion to approve the Emergency Certification for 79 Eastern Point Boulevard was made by Ms. Jackson, seconded by Ms. Kwasie and unanimously approved.

VI. AGENT'S REPORT ON VIOLATIONS

18 Hartz Street – discussion of recent vegetation cutting

Mr. Whittaker stated that the owner was stopped from cutting sumac. He wasn't aware of permit requirements and will allow vegetation to grow back and will put a plan forward at the appropriate time.

VIII. CERTIFICATES OF COMPLIANCE

Lot 3, Becker Circle (f/k/a Becker Lane) #28-653
510 Washington Street - #28-2395
2 Rockholm Road - #28-1576

Motion to approve the Certificates of Compliance for Lot 3, Becker Circle (f/k/a Becker Lane) #28-653, 510 Washington Street - #28-2395, and 2 Rockholm Road - #28-1576 was made by Ms. Jackson, seconded by Ms. Kwasie and unanimously approved.

- **Wingaersheek Improvement Society –Dune Access Restriction City of Gloucester** – Discussion of requirement for elevated walkways at Wingaersheek/Good Harbor Beaches

John Saunders- President, Wingaersheek Improvement Association

Mr. Saunders stated that signs will be posted indicating restricted access and to introduce policy, and taking active posture to protect the environment. He stated that he is working on how to facilitate how people will get to the beach by an elevated walkway.

Mr. Gulla stated that the Commission will not get involved to telling people what to do as far as access. Mr. Saunders will work with Mr. Whittaker for appropriate verbiage for the signs. Mr. Gulla also stated that stairway and platforms were favored and perhaps a “boiler plate” permit application could be structured for work on Wingaersheek or Coffin’s Beach properties such that approvals could be expedited once a sketch is submitted confirming compliance with standard and approved design condition, in essence a minor activities “exemption.”

Mr. Gulla noted that the Commission is not in the business of restricting specific groups of people – those are issues to be dealt with outside of our signage, which should be directly related to protecting dunes rather than getting into neighborhood disputes.

Mr. Whittaker mentioned that this is part of overall effort with WIA, that the intent is to get information out to all property owners and renters and to focus on keeping vehicles off the dunes, including those on private property, which are still subject to state law.

Mr. Whittaker also noted that the Conservation Commission has authority to issue fines, but state law implementation is under the jurisdiction of the Massachusetts Environmental police, but it is hard to get them to the beach on time to enforce.

Mr. Whittaker also noted that fires on beach are hard to monitor, but the Commission likely has authority to control ATV on dunes – we are working on how to deal with chronic ATV violators